

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

CR 19-50102

Plaintiff,

FACTUAL BASIS STATEMENT

vs.

FRANCIS JAMES KISTLER,

Defendant.

The defendant stipulates that the following facts are true and the parties agree they establish a factual basis for the plea in the action pursuant to Federal Rules of Criminal Procedure 11(b)(3):

Francis James Kistler, a veteran police officer with multiple law enforcement agencies, sexually exploited two minors in Edgemont, South Dakota, largely while he was on duty. Kistler resigned from the Custer County Sheriff's Office several years ago due to sexual misconduct with a minor; most recently, Fall River County has employed him. Kistler asked another Fall River sheriff's deputy to assist him in retrieving an unrelated video off his work-issued cell phone. While retrieving the video, the deputy saw naked pictures of a young-appearing female. He captured the images and later showed them to other deputies, one of whom recognized her as 17-year-old S.B.

Agents interviewed S.B. who said that Kistler used his position in law enforcement to obtain nude photos of her. S.B. said she sent specific images of

child pornography, at Kistler's direction, via Snapchat. He would tell her what position to be in and what part of her body to expose to the camera. Kistler would then screenshot the image and store it. He stored the child pornography images of S.B. on his phone in a folder labeled "Beautiful." In addition, Kistler sent S.B. multiple images of his penis and of him masturbating. Their communications stopped in June, 2019, when the other deputy discovered her pictures on Kistler's phone and law enforcement began to investigate.

DCI SA Scott Dirkes interviewed Kistler. He admitted to having an inappropriate sexual relationship with S.B. and stated that he "loved" her. He admitted to sexual contact and that she sent him nude images but claimed he never directly asked for nude images. Kistler knew it was wrong and illegal based on her age (he knew she was 16-17) but was in love so felt that meant the images were not child pornography. He also admitted to sending her images of his penis.

The next victim, L.S., was 13 when she was exploited by Kistler. L.S. said he would also meet up with her around town and hug her, touch her bottom and "boob." Kistler would tell her that he "loved" her. Kistler also sent her multiple images of his penis as well as videos of him masturbating to ejaculation. She told her father and showed him the masturbation video. Her father contacted the police. Kistler supplied her with alcohol on multiple occasions. L.S.'s friend who was present during several of her meetings with Kistler confirmed she saw Kistler touch L.S. on her bottom and "boob." The last messages Kistler sent were approximately a week and a half prior to the interview, which was on July 17, 2019.

Dirkes interviewed Kistler again and he said L.S. sent him nude images but "had no idea why." Kistler admitted he knew she was 13 years old. Kistler believed L.S. was 15 before that and he claimed he did not get any nude images after finding out she was 13. Kistler admitted to sending her multiple images of his penis via Snapchat because they were "farting around" and she wanted to see him ejaculate. He also admitted he "accidentally" touched her "boob" on one occasion.

DENNIS R. HOLMES
Acting United States Attorney

3/29/2021

Date



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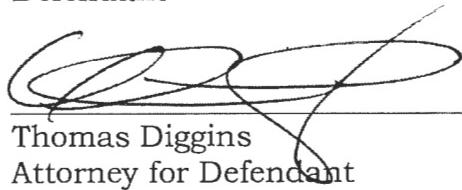
Date



Francis James Kistler
Defendant

3-26-21

Date



Thomas Diggins
Attorney for Defendant